



Memorandum

June 27, 2017

To: Workforce Services Division

Re: WSD Records, Data Request and Release

Scope: This process applies to all Workforce Services Division (WSD) employees, temporary employees, management and/or contracted workers.

Purpose: To ensure WSD staff safeguard confidential data and customer information against unlawful disclosure. This document serves as guidance for processing requests for the release of data and customer information.

Definitions:

- Customer means all job seekers, businesses and employing units.
- Customer Information means all information submitted to WSD by both job seekers and businesses that identifies an individual or employing unit.
- Data means information derived from customer information that contains personally identifying information related to one or more customers.

Process: WSD must safeguard customer information against unlawful disclosure. Customer files must be securely stored and access limited to authorized staff.

WSD staff **may** disclose information in the following circumstances:

1. An individual job seeker and/or business may receive information necessary for the efficient recruitment, placement, employment counseling, and other re-employment needs of job seekers and businesses.
2. A claimant for benefits under a state or federal UI or readjustment allowance law may receive information that directly concerns the claimant and is reasonably necessary for the proper presentation of the benefit claim.
3. State or federal agency officials who are lawfully charged with the administration of UI, readjustment allowance, public assistance, pension retirement, or other benefit program may receive customer information only for purposes reasonably necessary for the public administration of these laws.
4. Job-seekers, businesses and the public may receive general information concerning employment opportunities, employment levels and trends, and labor supply and demand;

provided, such release or publication does not include information that allows any job-seeker, business or employing unit to be individually identified.

5. Properly identified law enforcement officials, who have written (including emails) requests in order to receive job seeker contact or demographic information, in the course of performing public duties may receive limited demographic information about an individual for the purpose of locating that individual. WSD staff must maintain a complete record of access to client files in each individual's file. Law enforcement seeking information other than client address and telephone number must be referred to the appropriate Bureau Chief and DLI Legal Services.
6. State of federal agency officials who are investigating anti-discrimination and unfair employment practices may receive data and client information for purposes reasonably necessary for the public administration of anti-discrimination and labor laws.

WSD staff **may not** disclose information in the following circumstances:

1. Staff may not disclose the existence, nature or extent of a customer's disability or private medical information to anyone, even when the client has signed an Authorization for Release of Information.
2. Staff may not disclose any data or client information not specifically authorized by this process. All requests for unauthorized information must be forwarded the appropriate Bureau Chief and DLI Legal Services.
3. WSD managers or staff must immediately forward all subpoenas or other compulsory process received to the appropriate Bureau Chief for delivery to DLI Legal Services. If applicable, also forward a copy of the client's signed Authorization for Release of Information. In the absence of a signed Authorization for Release, DLI Legal Services will file a Motion to Quash.
4. Bureau of Labor Statistics (BLS) information, for nonstatistical purposes, that was collected under a pledge of confidentiality. Data may not be released to unauthorized persons, willful and knowing disclosure of protected data to unauthorized persons is a felony punishable by up to five years imprisonment and up to a \$250,000 fine.

All requests for the release of data and customer information to be released to a third party must be submitted in writing, including email. An Authorization for Release of Information form, signed by the client in the presence of WSD staff, must specifically describe the information to be released and identify the third party to whom the information is to be sent. A release form provided by another party may be accepted when the form includes all signatures and information required by WSD's Authorization for Release of Information form; if the form has been signed at another location, WSD staff must verify that the customer signature is valid. Staff must present all requests for customer information to the appropriate Bureau Chief. DLI Legal Services must review and approve all data and client information before it is sent to a third party.

This process does not supersede [Labor & Industry Department policy or practices](#).

References:

- [MCA 39-51-603 \(3\) Employing Unit to Keep Records and make Reports - Confidentiality - Rules](#)
- [Montana Constitution Article II Section 9-10 Right to Know and Right to Privacy](#)
- [20 CFR 603.4\(b\) Confidentiality Requirement of Federal UC law - Interpretation](#)
- [20 CFR 603.7\(a\) Subpoenas, compulsory processes and disclosure to officials with subpoena authority](#)
- [Wagner-Peyser Act of 1933, Section 15 a 2 Information to be Confidential](#)
- [BLS Confidential Information Protection and Statistical Efficiency Act](#)